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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,519

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Robert A. Larson

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EXAMINER

PARSLEY, DAVID J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/699,519	Applicant(s) LARSON ET AL.	
	Examiner DAVID J. PARSLEY	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 77-84 and 86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 77-84 and 86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 9-3-08 and this action is final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 77, 80-82, 84 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,854,859 to Cooper et al. in view of U.S. Patent No. 6,260,302 to Blaschke and further in view of U.S. Patent No. 5,428,484 to Baker.

Referring to claims 77 and 86, Cooper et al. discloses an illumination device including a telescoping handle – see at 66,67,70, a foldable frame – at 200-210, comprising, the handle being formed by a plurality of telescoping sections – see at 66,67,70, a tool adjacent section – at 68-75,168,172, having a distal end facing the tool – at 202 – see figures 9,10, the frame being secured to the tool adjacent telescoping section – see figures 9-10, and LED illuminator – at 168,172, for illuminating the tool – at 202 – see figures 9-10, all of the illuminator being

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disposed in the distal end of the tool adjacent section – see at 168,172 in figures 9-10, and remote from the opposite end of the handle – see figures 8-10, the illuminator including, a light body – at 172, secured to the distal end of the tool adjacent section – see figures 9-10, the light body having a tool facing section and a single inner recess – see figures 8-10, at least one light emitting diode secured within the inner recess – see figures 8-10, at least one battery secured within the inner recess for electric power to the LED – see figures 8-10, and a switch – at 18, secured to the light body – see figures 8-10, for on/off switching of electric power to the LED – see figures 1-10 and column 4 lines 19-24, and a lens – at the casing portion of the LED – at 74,172 as seen in figures 8-10. Cooper et al. does not disclose the working tool is a net. Blaschke does disclose a lighted tool having a foldable frame – at 12, having a net on the frame – see at 14,15 in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cooper et al. and add the foldable frame and net of Blaschke, so as to allow for the device to be used for retrieving objects during use. Cooper et al. as modified by Blaschke does not disclose the switch having an LED-light passage portion therethrough. Baker does disclose the switch - at 14,16,42, has a light passage portion therethrough - see at 42 in figures 1-2 and column 2 lines 11-22. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cooper et al. as modified by Blaschke and add the switch with light passage portion therethrough of Baker, so as to allow for light to be directed from one end of the device during use.

Referring to claim 80, Cooper et al. as modified by Blaschke and Baker further discloses the frame has at least one surface – at 208 and/or 202, facing the LED and having a reflective portion – at 202 – see figures 9-10 of Cooper et al.

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Referring to claim 81, Cooper et al. as modified by Blaschke and Baker further discloses the reflective portion is a reflective coating – see at 202 of Cooper et al.

Referring to claim 82, Cooper et al. as modified by Blaschke and Baker does not disclose the reflective portion is one of reflective tape and reflective coating containing fluorescent pigment. However, applicant does not state that using reflective tape or coating with fluorescent pigment is critical to the operation of the invention in view of other types of reflective materials. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cooper et al. as modified by Blaschke and add the reflective tape or coating having fluorescent pigment, so as to allow for the device to be more visible to the user.

Referring to claim 84, Cooper et al. as modified by Blaschke and Baker further discloses the light body – at 172, is further adapted for focusing a light beam from the illuminator on the reflective portion – at 202 – see figures 8-10.

Claims 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al. as modified by Blaschke and Baker as applied to claim 77 above, and further in view of U.S. Patent No. 5,647,623 to Shiao.

Referring to claim 78, Cooper et al. as modified by Blaschke and Baker further discloses the switch is a rotary switch and end rotatably attached to the net-facing end of the light body and having a light passage portion therethrough – see at 14,16,42 in figures 1-2 of Baker. Cooper et al. as modified by Blaschke and Baker does not disclose the switch has a first end engaging a lens. Shiao does disclose the switch is a switch lens cap – at 10,22,40, having a first end engaging a lens – at 40,50 – see figures 1-2. Therefore it would have been obvious to one of

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ordinary skill in the art to take the device of Cooper et al. as modified by Blaschke and add the rotary switch lens cap of Shiao, so as to allow for the device to be easily controlled by the user.

Claim 79 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al. as modified by Blaschke, Baker and Shiao as applied to claim 78 above, and further in view of U.S. Patent No. 6,305,818 to Lebens et al.

Referring to claim 79, Cooper et al. as modified by Blaschke, Baker and Shiao further discloses the LED illuminator is adapted for changing the light brightness level by rotating the rotary switch, the illuminator further including a plurality of switch positions – see at 10,22,40 in figure 2 of Shiao and - at 14,16,42 of Baker, corresponding to a plurality of brightness levels accessed by rotating the rotary switch lens – see figure 2 and column 4 lines 17-48 of Shiao and figures 1-2 of Baker. Cooper et al. as modified by Blaschke, Baker and Shiao does not disclose an illumination level control adapting the LED to the plurality of brightness levels corresponding to the plurality of switch positions. Lebens et al. does disclose an illumination level control adapting the LED to the plurality of brightness levels corresponding to the plurality of switch positions - see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cooper et al. as modified by Blaschke, Baker and Shiao and add the illumination control of Lebens et al., so as to allow for the intensity of light produced by the device to be controlled.

Claim 83 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al. as modified by Blaschke and Baker as applied to claim 82 above, and further in view of U.S. Patent No. 5,442,875 to Brundage et al. Cooper et al. as modified by Blaschke and Baker does not disclose the surface of the frame includes an optical filter for filtering light emitted by the frame.

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Brundage et al. does disclose the frame – at 12, includes an optical filter for filtering light emitted by the frame – at the outer surface of 12 – see column 4 lines 38-49 and column 6 lines 17-26. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cooper et al. as modified by Blaschke and Baker and add the optical filter of Brundage et al., so as to allow for light transmitted through the device to be controlled.

Response to Arguments

3. Regarding claims 77-84 and 86, the Cooper reference US 6854859 discloses a single inner recess – the interior of the device – at 66-72 for holding the light and batteries - see figures 8-10. Applicant argues that the device - at 66-72 is made of separable housings and therefore has more than one recess, however as seen in figures 8-10, a single inner recess is formed when the device is fully assembled and therefore the operable device as that of figures 8-10 is deemed to disclose the claimed single inner recess. Applicant further argues that it is improper to combine the Cooper reference with the Blaschke reference US 6260302. As seen above in paragraph 2 of this office action the Blaschke reference is used to disclose the foldable frame and it is deemed that the Cooper reference can be made to have a foldable frame portion such as at the end with the light source without making the device of Cooper inoperable in that any electrical connections between the light source and the batteries is made with flexible wiring such as at item 40 of the embodiment of figures 5a-5b of Cooper, and therefore Cooper would not be made inoperable if it were to have a foldable frame portion such as that of Blaschke.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/
Primary Examiner, Art Unit 3643